

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 N. 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of

Rich Rentals
Warrensburg, Missouri

Respondent

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Docket No. TSCA-07-2004-0177

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Rich Rentals (Respondent) have agreed to a settlement of this action before the filing of a complaint. and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F, *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*,

promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, is the Chief, Radiation, Asbestos, Lead and Indoor Programs Branch, EPA, Region 7.

4. The Respondent is Rich Rentals, 1239 Pembroke Drive, Warrensburg, Missouri, 64093.

Statutory and Regulatory Background

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. §§ 4851-56, to address the need to control exposure to lead-based paint hazards. The Act amended TSCA by adding to it Sections 401 through 412, 15 U.S.C. §§ 2681-92. Section 1018 of the Act required that EPA and the Department of Housing and Urban Development (HUD) jointly issue regulations requiring the disclosure of information relating to lead-based paint and/or lead-based paint hazards to persons selling or leasing housing constructed before the phase out of residential lead-based paint use in 1978. EPA and HUD issued those regulations on March 6, 1996, which are codified at 40 C.F.R. Part 745, Subpart F. The regulations, issued March 6, 1996, and codified at 40 C.F.R. Part 745, Subpart F, require that sellers and lessors of most residential housing built before 1978: a) disclose the presence of known lead-based paint and/or lead-based paint hazards in the target housing; b) provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; c) provide purchasers and lessees with a federally approved lead hazard information pamphlet; d) provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; and e) include certain disclosure and acknowledgment language in the sales or leasing contract. The failure

or refusal to comply with the regulations is a violation of Section 1018 of the Act and Section 409 of TSCA.

Alleged Violations

6. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

Counts 1

7. Respondent is, and at all times referred to herein, was a "person" within the meaning of TSCA.

8. Respondent is the "lessor" as the term is defined by 40 C.F.R. § 745.103, of the residential property located at 410 Christopher, Warrensburg, Missouri 64093 and 319 Hamilton, Warrensburg, Missouri 64093.

9. The property referenced above was constructed prior to 1978.

10. The property referenced above is "target housing" as that term is defined by 40 C.F.R. § 745.103 because the property is housing constructed before 1978.

11. Information collected shows that Respondent entered into two contracts to lease the individual property on May 1, 2003, and August 1, 2003.

12. Information collected shows that in each of the two contracts Respondent failed to provide the lessees with an EPA-approved lead hazard information pamphlet before the lessees were obligated under a contract to lease the target housing.

13. Respondent's failure to provide an EPA-approved lead hazard information pamphlet is a violation of 40 C.F.R. §§ 745.107(a)(1) and, in accordance with 40 C.F.R. § 745.118(e), a violation of Section 1018 of the Act, 42 U.S.C. § 4852d, and Section 409 of TSCA, 15 U.S.C. § 2689, and thus Respondent is subject to civil penalties under Section

interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C.

§§ 2601 et seq., and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of Three Thousand and Eighty Dollars (\$3,080) within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

EPA-Region 7
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

~~2. A copy of the check shall simultaneously be sent to the following:~~

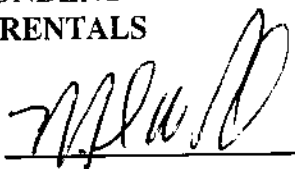
Regional Hearing Clerk
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101; and

Melissa A. Coleman
Office of Regional Counsel
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

**RESPONDENT
RICH RENTALS**

Date: 4-1-04

By: 

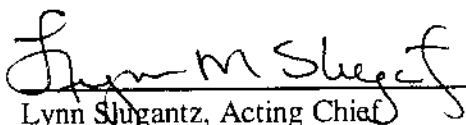
Mike W. Rich
Printed Name

Title: Owner

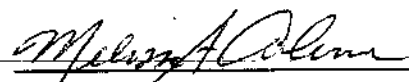
**COMPLAINANT
ENVIRONMENTAL PROTECTION**

AGENCY

Date: 4/8/04

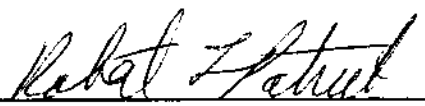
By: 
Lynn Shugantz, Acting Chief
Radiation, Asbestos, Lead and Indoor
Programs Branch

Date: 4-7-04

By: 
Melissa A. Coleman
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: April 12, 2004


ROBERT L. PATRICK
Regional Judicial Officer
EPA, Region 7

IN THE MATTER OF Rich Rentals, Respondent
Docket No. TSCA-07-2004-0177

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Melissa A. Coleman
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Rich Rentals
1239 Pembroke Drive
Warrensburg, Missouri 64093

Dated: 4/13/04


Kathy Robinson
Regional Hearing Clerk
